

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

RODNEY E. BEERS,)	
)	
Plaintiff,)	
)	
v.)	No. 4:9CV827 TIA
)	
MICHAEL J. ASTRUE,)	
COMMISSIONER OF SOCIAL SECURITY,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

This matter is before the Court on Plaintiff's Motion for Attorney's Fees pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412. The parties consented to the jurisdiction of undersigned pursuant to 28 U.S.C. § 636(c). The parties have agreed to an amount of \$5,008.01, representing 29.7 hours of attorney work at \$168.62 per hour. See Docket No. 34.

The Court finds that Plaintiff Rodney E. Beers is the prevailing party in this action; that he is eligible to receive an award under 28 U.S.C. § 2412(d); that the government's position was not substantially justified; and that the attorney's fees requested by attorney Eve. D. Dake are reasonable. On these findings, the Court concludes that an award of fees should be granted under the Equal Access to Justice Act, 28 U.S.C. § 2412(d).

As stated by Defendant, EAJA fees are payable to the Plaintiff and may be offset to satisfy any pre-existing debt owed to the United States. Astrue v. Ratliff, __ U.S. ___, 130 S. Ct. 2521, 2527 (2010). The undersigned thus finds that Defendant should first verify whether the Plaintiff owes a debt to the United States. If such debt is owed, Defendant shall offset the amount and pay the remaining balance to the Plaintiff. If the Plaintiff does not owe any debt, Defendant shall make the

fee payable to Plaintiff's attorney based upon the Fee Agreement and Assignment -- Federal Court signed by the Plaintiff. Whether made payable to the Plaintiff or to his attorney, the fee shall be mailed to Plaintiff's attorney: Eve D. Dake, P.O. Box 190638, St. Louis, MO 63119. An appropriate Judgment will accompany this Memorandum and Order.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff's Motion for Attorney's Fees pursuant to the Equal Access to Justice Act (Docket No. 30) is **GRANTED**, in part, consistent with the Memorandum and Order. Plaintiff is awarded the total sum of \$5,008.01. The payment of the award under the EAJA shall be awarded directly to Plaintiff's counsel, Eve D. Dake.

/s/ Terry I. Adelman
UNITED STATES MAGISTRATE JUDGE

Dated this 6th day of September, 2011.